IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

WP(C).No. 35627 of 2007(N)

(I.A.NO.658 OF 2007 OS.167/1999 of MUNI-MAGI.COURT,PATTAMBI)

PETITIONER:

MOOSAKUTTY, S/O. KAMMALI,
PARUVINGAL HOUSE, CHERUKUDANGAD AMSOM,
PALLIPPURAM DESOM, OTTAPALAM TALUK,
PALAKKAD DISTRICT.

BY ADV. SRI.SANTHEEP ANKARATH

RESPONDENTS:

1. **KRISHNAN NAMBOODIRI, S/O. KUMARAMPULAKKAL PURUSHOTHAMAN NAMBOODIRI, CHERUKUDANGAD AMSOM, CHEMBALANGAD DESOM, OTTAPALAM TALUK, PALAKKAD DISTRICT.**
2. **MOHANDAS, S/O. NADAKKAVIL NARAYANAN, -DO- -DO-**
3. **VASU, S/O. ARANATH PARAMBIL KOTHA, -DO- -DO-**
4. **SURESH, S/O. ARANATH PARAMBIL KANAKKARAYI, -DO- -DO-**
5. **BALAN, S/O. ARANATH PARAMBIL CHAKKAN,-DO- -DO-**
6. **THAMI, S/O. POTTAMMAL KARIKKA, -DO- -DO-**
7. **VELAYUDHAN, S/O. ARANATH PARAMBIL AYYAPPAN, -DO- -DO-**
8. **MANIKANDAN, S/O. ARANATH PARAMBIL CHAKKAN, -DO- -DO-**
9. **BALAN, S/O. OTHANKATTU PARAMBIL KUNHADI, -DO- -DO-**
10. **MAIMOONA, W/O. MOHAMMED HANEEFA, ATHANIKKAL, CHERUKADANGADU AMSOM DESOM, OTTAPALAM TALUK, PALAKKAD DISTRICT.**

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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M.N. KRISHNAN, J.

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W.P.C. NO. 35627 OF 2007

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Dated this the 3rd day of December, 2007.

J U D G M E N T

This writ petition is preferred against the order of the Munsiff, Pattambi in I.A.658/07. It is an application filed by the plaintiff in O.S.167/99 to implead the plaintiff in O.S.9/99 as 10th defendant in the suit. The Court below after consideration of the entire materials found that his junction is not necessary and O.S.167/99 can be disposed of without the 10th defendant being in the party array.

2. A perusal of the plaint in this suit will reveal that the plaintiff is claiming exclusive right over 48 cents of land on the basis of an oral lease and the defendant in the suit contend that there is no such lease and plaintiffs are not entitled to the property. The learned counsel for the writ petitioner submits that in O.S.9/99 also the dispute is with respect to the pathway which is running through the two properties and therefore junction of that plaintiff is

necessary. In the decision reported in ***National Spices v. Andhra Bank (1987 (2) KLT 132)*** this Court had laid down the principle when a party is to be impleaded. The Court in that case held that "anyhow a person sought to be added should have a direct interest as distinguished from a commercial interest in the subject matter of the litigation. The test is whether the relief claimed by the plaintiff will directly affect the person to be impleaded in the enjoyment of his rights." Here, what is to be decided is whether the junction of the 10th defendant is necessary for disposal of O.S.167/99. I feel, as rightly discussed by the Court below, that his junction is not necessary because neither the plaintiff nor the defendants contend that they are entitled to some relief against the 10th defendant. Therefore, I find that the 10th defendant is not a necessary party and therefore this writ petition is dismissed.

M.N. KRISHNAN, JUDGE.

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